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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

SMASH TECHNOLOGY, LLC, a Nevada
limited liability company; and MICHAEL
ALEXANDER, an individual;

Plaintiffs,

vs.

SMASH SOLUTIONS, LLC, a Delaware
limited liability company; JERRY “J.J.”
ULRICH, an individual; SMASH
INNOVATIONS, LLC, a Wyoming limited
liability company; and FERACODE, LLC, a
Utah limited liability company,

Defendants.

SMASH SOLUTIONS, LLC, a Delaware
limited liability company; JERRY “J.J.”
ULRICH, an individual; and JOHN DOES 1-3;

Counterclaim Plaintiffs,

vs.

SMASH TECHNOLOGY, LLC, a Nevada
limited liability company; and MICHAEL
ALEXANDER, an individual;

Counterclaim Defendants.

**MOTION FOR DISMISSAL
WITHOUT PREJUDICE**

Civil No. 2:19-cv-00105-TC-JCB

Judge Tena Campbell

Magistrate Judge Jared C. Bennett

Defendants and Counterclaim Plaintiffs Smash Solutions, LLC (“**Solutions**”), Jerry J. Ulrich (“**Ulrich**”), and Smash Innovations, LLC, through their counsel of record Matthew C. Barneck of RICHARDS BRANDT MILLER NELSON, submit this Motion for Dismissal Without Prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.

1. By an Order Adopting Report & Recommendation entered by the Court on July 15, 2021 (Doc. 109), the Plaintiffs’ Amended Complaint was dismissed in its entirety and with prejudice against all Defendants.

2. By the same Order, certain causes of action in the Counterclaims filed by Solutions and Ulrich were also dismissed. (*See* Doc. 109.)

3. Counterclaim Plaintiffs Solutions and Ulrich now seek an Order approving the dismissal without prejudice of the remaining causes of action in their Counterclaims.

MOTION

Based on the foregoing, and pursuant to FED. R. CIV. P. 41(a)(2), Counterclaim Plaintiff Solutions moves the Court for an Order dismissing without prejudice the Third, Fourth, Fifth, and Sixth causes of action in its Amended Counterclaim filed September 19, 2019 (Doc. 59). Similarly, Counterclaim Plaintiff Ulrich moves the Court for an Order dismissing without prejudice the First and Second causes of action in his Counterclaim filed September 19, 2019 (Doc. 60). Good cause supports the dismissal of these claims without prejudice so that they may be preserved and refiled in the future, if necessary.

DATED this 23rd day of February, 2022.

RICHARDS BRANDT MILLER NELSON

/s/ Matthew C. Barneck

MATTHEW C. BARNECK

Attorneys for Smash Solutions, LLC,

Smash Innovations, LLC, and Jerry J. Ulrich

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of February, 2022, I electronically filed the foregoing **MOTION FOR DISMISSAL WITHOUT PREJUDICE** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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